

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF JULY 2018

PRESENT

THE HON'BLE MR. JUSTICE H.G.RAMESH

AND

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

WRIT PETITION NO.29201/2018 (EDN-CET)

MYLEPALLE VAIBHAVI

v/s.

KARNATAKA EXAMINATIONS AUTHORITY SAMPIGE ROAD

ORDER

H.G.RAMESH, J. (Oral):

1. In this writ petition, petitioner who has registered with the Karnataka Examinations Authority for admission to MBBS/BDS courses has challenged the validity of the proviso to Clause 2.2 of Chapter 4 of Karnataka State Information Bulletin (the Bulletin ' for short) issued jointly by Directorate of Medical Education, Government of Karnataka and Karnataka Examinations Authority, Government of Karnataka for Centralized Counseling for UG NEET 2018 qualified candidates for admission to MBBS and BDS courses for the academic year 2018-19. The ground urged is that the proviso is violative of Articles 14, 29 and 30 of the Constitution of India. Clause 2.2 lays down the criteria to determine as to whether a candidate belongs to a linguistic minority in Karnataka; it reads as follows:

" 2.2 Eligibility for Linguistic Minority:

Linguistic Minority reservation is applicable for Tamil, Telugu, Kodava & Tulu of Karnataka Candidates and domicile candidates only.

Provided he/she should have studied in Karnataka for a period of Ten Years from 1st Standard to qualifying exam and passed SSLC/10th or 2nd PUC/12th from Karnataka state."

Production of original of the Bulletin is dispensed with; I.A.No.1/2018 is accordingly disposed of.

2. We have heard the learned counsel for the petitioner and the learned Advocate General for respondent nos.3 & 4 and perused the record.

3. Learned counsel for the petitioner submitted that the petitioner was born in Karnataka and studied in Karnataka for four years. She studied 9th & 10th standard and I & II PUC in Karnataka during the academic years 2013-14 to 2016-17. The mother tongue of the petitioner is Telugu. The mother of the petitioner had resided in Karnataka and after marriage, she went to Andhra Pradesh as the father of the petitioner is a resident of Andhra Pradesh. The father is in a transferable job and presently he is working in Hyderabad as Chief Manager in State Bank of India. He further submitted that as the petitioner does not fulfill the criteria laid down in the proviso to Clause 2.2 of the Bulletin, she is not being considered as a candidate belonging to Telugu Linguistic Minority in Karnataka. He contended that the criteria of ten years of study in Karnataka including passing of 10th or 12th standard in Karnataka to claim the status of a linguistic minority in Karnataka is arbitrary and unreasonable and is violative of Articles 14, 29 and 30 of the Constitution. He contended that

the State cannot trace its power to any provision of law to impose the criteria laid down in the proviso to Clause 2.2 of the Bulletin, and hence, it is without the authority of law. In support of the writ petition, he referred to a decision of the Supreme Court in *Kriti Lakhina v. State of Karnataka* [AIR 2018 SC 1657] and also an interim order of the Supreme Court dated May 9, 2017 in *Dar-Us-Slam Educational Trust v. Medical Council of India* (Laws (SC) 2017 5 67). He also referred to a decision dated 17.08.2017 rendered by a Division Bench of this Court in *M. Monisha v. Karnataka Examinations Authority* in W.P.No.36913/2017.

4. The learned Advocate General submitted that, for a person to claim the status of belonging to a linguistic minority in a State, he shall ordinarily be a resident of that State. Hence, the State is within its power to lay down a reasonable criteria to determine as to whether a person can be considered to be ordinarily a resident of the State to claim the status of belonging to a linguistic minority in the State. He submitted that to complete 12th standard or 2nd PUC, a student must be of seventeen years of age, and therefore, the criteria that the student should have studied in Karnataka for a period of ten years stated in the proviso to Clause 2.2 of the Bulletin can't be said to be arbitrary or unreasonable to warrant interference by this Court.

5. The question that requires to be considered in this petition is as to whether the criteria of ten years of study in Karnataka to claim the status of a linguistic minority in Karnataka for the purpose of admission to undergraduate medical and dental courses in the State is arbitrary and is violative of Articles 14, 29 and 30 of the Constitution of India?

6. Merely that a person was born in a State and merely that his parents are residents of that State, by itself, does not confer on him the status of belonging to a linguistic minority of that State. In law, for a person to claim the status of belonging to a linguistic minority in a State, he shall ordinarily be a resident of that State. Residence does not mean a temporary residence. Hence, a reasonable criteria needs to be laid down by the State to determine as to whether a person can be considered to be a resident of the State for granting the status of belonging to a linguistic minority in the State for the purpose of admission to undergraduate medical and dental courses in the State. The State will be within its power to lay down a reasonable criteria in this behalf. In our opinion, the criteria of ten years of study in Karnataka laid down by the State in Clause 2.2 of the Bulletin to consider a candidate as belonging to a linguistic minority in Karnataka for the purpose of admission to undergraduate medical and dental courses in the State can't be said to be arbitrary or unreasonable to offend Articles 14, 29 and 30 of the Constitution. The contention to the contrary is devoid of merit and, therefore, is rejected.

7. The two decisions of the Supreme Court referred to by the petitioner's counsel do not lay down any criteria to determine a linguistic minority in a State. Hence, they have no bearing on the question raised in this petition. In *Monisha's* case referred to above, the proviso to Clause 2.2 of the Bulletin whose validity is challenged in this petition did not even fall for consideration and further no criteria is laid down therein for determination of a linguistic minority in a State. Therefore, the said decision is not of any assistance to the petitioner.

8. For the reasons stated above, the writ petition is devoid of merit and is accordingly dismissed.

Petition dismissed.